

The House Committee on State Institutions and Property offers the following substitute to SB 254:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the "State Properties Code," so as to provide the State Properties Commission the authority to enter into multiyear lease agreements; to remove the authority of the Department of Labor to manage its own space; to provide for the termination of certain rental and lease agreements; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the "State Properties Code," is amended in Code Section 50-16-34, relating to the powers and duties of the State Properties Commission generally, by striking "and" at the end of paragraph (16), by replacing the period at the end of paragraph (17) with a semicolon, and adding a new paragraph to read as follows:

"(18) Contract with a licensed real estate broker through a competitive selection process to perform transaction management services on behalf of the commission. For the purposes of this Code section, 'transaction management' is defined as the management of all tasks relative to the acquiring and disposing of real property assets, whether leased, subleased, or owned. The commission may charge and retain a negotiated fee from the broker for the purpose of financing the operations of the commission, including, but not limited to, costs associated with acquiring and disposing of real property, negotiating and entering into rental agreements, and establishing and maintaining reserve funds for the payment of necessary expenses for carrying out the purposes of this article."

SECTION 2.

Said article is further amended by revising Code Section 50-16-41, relating to authorizing rental agreements without competitive bidding, limitations, charging the commission with

the management of administrative space, standards governing the utilization of administrative space, reassignment of administrative space, and rules and regulations therefore, as follows:

"50-16-41.

(a) Notwithstanding any provisions and requirements of law to the contrary and particularly notwithstanding the requirements of Code Section 50-16-39, the commission is authorized to negotiate, prepare, and enter into in its own name rental agreements whereby a part of the property is rented, without public competitive bidding, to a person for a length of time not to exceed one year and for adequate monetary consideration (in no instance to be less than a rate of \$250.00 per year), which shall be determined by the commission, and pursuant to such terms and conditions as the commission shall determine to be in the best interest of the state. The same property or any part thereof shall not be the subject matter of more than one such rental agreement to the same person unless the commission shall determine that there are extenuating circumstances present which would make additional one-year rental agreements beneficial to the state; provided, however, the same property or any part thereof shall not after April 24, 1975, be the subject matter of more than a total of three such one-year rental agreements to the same person.

(b) The commission is given the authority and charged with the duty of managing the utilization of administrative space by all state entities, except that the Board of Regents of the University System of Georgia ~~and the Georgia Department of Labor~~ may manage ~~their~~ its own space but only for leases that are within the State of Georgia and required for ~~their~~ its core mission. The commission shall manage in a manner that is the most cost efficient and operationally effective and which provides decentralization of state government. Such management shall include the authority to assign and reassign administrative space to state entities based on the needs of the entities as determined by standards for administrative space utilization promulgated by the commission pursuant to subsection (g) of this Code section and shall include the obligation to advise the Office of Planning and Budget and state entities of cost-effective, decentralized alternatives.

(c) The management of the utilization of administrative space by the commission shall include entering into any necessary agreements to rent or lease administrative space, whether existing or to be constructed, and shall include administrative space rented or leased by a state entity from the Georgia Building Authority or from any other public or private person, firm, or corporation. When it becomes necessary to rent or lease administrative space, the space shall be rented or leased by the commission for a term not to exceed ten years and assigned to the state entity or entities requiring the space. All agreements to rent or lease administrative space with a term of greater than one year shall be publicly advertised for a minimum of four consecutive weeks. Selections are to be

based on criteria set forth in the advertisement and the qualifications of the vendor. When there is a need to terminate an agreement for the rent or lease of administrative space, the state entity to which the space is assigned shall notify the commission of such need no less than 90 days prior to the requested date of termination. No agreement for the rent or lease of administrative space with a term in excess of one year shall be terminated without prior approval of the commission.

(d) If the commission reassigns all or any portion of any administrative space which is leased or rented by one state entity to another state entity, the state entity to which the administrative space is reassigned ~~shall~~ may pay to the commission rental charges, as determined by the commission, for the utilization of the space; and the commission ~~shall~~ may, in turn, use the rental charges so paid for the purpose of paying or partially paying, as the case may be, the rent or lease payments due the lessor of the administrative space in accordance with the terms of the lease or rent contract existing at the time of the reassignment of the administrative space. Any such payments to a lessor by the commission shall be on behalf of the state entity which is the lessee of the administrative space reassigned as provided in this Code section.

(e) The management of the utilization of administrative space given to the commission by this Code section shall not be construed to impair the obligation of any contract executed before July 1, 1976, between any state entity and the Georgia Building Authority or between any state entity and any other public or private person, firm, or corporation; and the powers given to the commission by this Code section shall not be implemented or carried out in such a manner as to impair the obligation of any such contract.

(f) The commission is authorized and directed to develop and promulgate standards governing the utilization of administrative space by all state entities which require emphasis on cost effectiveness and decentralization. The standards shall be uniformly applied to all state entities except as otherwise provided by subsection (g) of this Code section, but the standards shall recognize and provide for different types of administrative space required by the various state entities and the different types of administrative space that may be required by a single state entity.

(g) The commission shall be authorized to reassign administrative space to the various state entities in order to bring the utilization of administrative space into conformity with the standards promulgated under subsection (f) of this Code section. Any additional administrative space required by a state entity shall be approved by and obtained through the commission. The commission shall be authorized to grant exceptions to the standards governing the utilization of administrative space when the reassignment of such space would involve unnecessary expenses or the disruption of services being provided by a state entity. The commission shall adopt and promulgate rules and regulations governing the

granting of such exceptions, and the rules and regulations shall be uniformly applied by the commission to all state entities requesting an exception to the standards.

(h) For purposes of cost effectiveness and decentralization, the following factors, among other factors, shall be considered:

(1) Dual location of programs within a city should be considered in order to take advantage of possible economies of scale and as a matter of convenience to the general public; or

(2) When all factors are reasonably equivalent, preferences will be given to location of state government programs and facilities in those counties which are determined by the Department of Community Affairs to be the most economically depressed, meaning those 71 tier 1 counties of the state designated as least developed under paragraph (2) of subsection (b) of Code Section 48-7-40.

(i) The commission is authorized and directed to promulgate rules and regulations governing budgetary requirements for administrative space utilized by state entities in cooperation with the Office of Planning and Budget whereby the entities shall be accountable in the budgetary process for administrative space assigned to and utilized by them. The budgetary requirements may provide for the payment of rent to the commission by state entities or may otherwise provide procedures for the assessment of rent charges for administrative space utilized by state entities or any combination of the foregoing. The commission shall provide a report annually, no later than September 1 of each year, to the Governor, President of the Senate, and Speaker of the House of Representatives of the total sum of all leasing obligations to be paid by the state for the upcoming fiscal year.

(j) In addition to the standards and rules and regulations specifically provided for by this Code section, the commission is authorized to adopt such other rules and regulations as may be required to carry out this Code section efficiently and effectively."

SECTION 3.

This Act shall become effective on January 1, 2011; provided, however, that this Act shall only become effective on January 1, 2011, upon the ratification of a resolution at the November, 2010, state-wide general election, which resolution amends the Constitution so as to authorize certain agencies to enter into lease and rental contracts exceeding one year. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2011.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.